

4.5 BIOLOGICAL RESOURCES

4.5.1 ALTERNATIVE A – PROPOSED CASINO AND HOTEL

GENERAL EFFECTS

The proposed project has the potential to result in adverse impacts to the biological resources associated with the shallow marsh and ruderal grassland habitat. These habitats occurring on the DGP property provide habitat for a variety of wildlife and plant species. The Biological Resources Assessment for the project (**Appendix G**) identifies approximately 20.0± acres of ruderal grassland and 0.3± acres of shallow marsh habitat would be removed or may be indirectly affected by construction of the proposed project. Although these estimates may change due to site plan modifications that have been made to avoid/reduce impacts to wetlands, impacts to these habitats would still occur.

Potential impacts are considered less than significant due to the relatively common and abundant nature of these habitat types in the region compared to the relatively small area of anticipated disturbance. Ruderal grassland and shallow marsh habitat are relatively abundant on a local and regional scale and not considered a sensitive resource due to disturbance levels and dominance of non-native species.

Construction and operation of the casino-resort project could also impact sensitive biological resources including “waters of the U. S.” and Federally protected species through destruction, alteration or degradation of these water resources and/or terrestrial habitats.

POTENTIAL EFFECTS TO WILDLIFE AND HABITATS

Implementation of the project would result in an increase in human activity within the project area, which would include grading and development of about ±20.3 acres of the undeveloped western side of the property. Many species of wildlife will avoid areas that have a high degree of human activity, thereby causing them to forage over greater distances and reducing the number of breeding and resting sites that are available.

Development of Alternative A would result in effects to on-site habitats that are utilized by many species of wildlife (refer to vegetation communities in **Section 3.5.2**). **Table 4.5-1** provides a summary of the acreage of each habitat type that would be affected under Alternative A. As shown in this table, Alternative A would affect 20.3± acres of habitat within the project site. Most of the habitat disturbance, approximately 20.0 acres, would occur in ruderal grassland habitat. These areas present limited resources for wildlife and are currently subject to disturbance from existing forms of land use, specifically the existing greyhound race facilities adjacent to this area.

TABLE 4.5-1
ANTICIPATED EFFECTS TO HABITAT TYPES –ALTERNATIVE A

Habitat Type	Total Acres	Acreage Affected	Percentage Affected
Developed/ruderal/agriculture	176.2	20.0	11.3
Aquatic	20.0	0.0	0.0
Floodplain forest	5.0	0.0	0.0
Southern dry forest	6.3	0.0	0.0
Shallow Marsh	13.2	0.3	2.5
Eastern cottonwood/willow scrub	3.3	0.0	0.0
Total	224	20.3	13.8

SOURCE: AES, 2004

WATERS OF THE U. S.

Analytical Environmental Services (AES) biologists conducted a formal delineation for the project (**Appendix H**). Kilbourn Road Ditch and its fringing wetland floodplain forest, a shallow marsh, and four constructed ponds occur within the study area. These features occupy a total of 36.03 acres. The marsh and excavated ponds are isolated from Kilbourn Road Ditch and are therefore not jurisdictional by the United States, according to the Army Corps of Engineers (USACE) (**Appendix Q**). However, Kilbourn Road Ditch is a tributary to the Des Plaines River, a tributary of the Mississippi River, and thus qualifies as jurisdictional “waters of the U. S.”

Modifications to previous conceptual site plans were made to avoid and reduce potential impacts to “waters of the U. S.” Site plans have been modified to account for the Floodplain Fringe Overlay (FFO) District as outlined by the City of Kenosha. This protects the floodplain forest habitat adjacent to Kilbourn Road Ditch from impacts by the proposed development. Approximately 0.3 acres of non-jurisdictional wetlands may still be filled by other components such as parking lots or proposed roads (**Table 4.5-2**).

TABLE 4.5-2
ANTICIPATED DIRECT EFFECTS TO SHALLOW MARSH AREAS – ALTERNATIVE A

Project Component	Water Type	Activity Description	Effect Acreage
Future Hotel Parking and Roads	Pond B (non-jurisdictional) and Pond A (non-jurisdictional)	Addition of parking spaces for future hotel and access roads.	0.3
TOTAL			0.3

SOURCE: AES, 2004

Implementation of the minimization and avoidance measures identified in **Section 5.0** will avoid or minimize the potential for significant adverse effects to “waters of the U.S.”

FEDERALLY LISTED SPECIES

None of the three Federally listed species (Eastern Massasauga rattlesnake, prairie white-fringed orchid and prairie bush clover) were observed during the field assessment. The Eastern Massasauga rattlesnake will not be impacted for three main reasons. Primarily, the Kilbourn Road Ditch floodplain area will not be encroached upon. Secondly, the rattlesnake prefers to use crayfish or small mammal burrows to winter in and these signs were not observed during the survey. Finally, the WDNR reports no specimens found in Kenosha County, and no rattlesnakes were observed on the project site. Based upon the review of known occurrences, habitat requirements, and the habitat types present within the DGP facility and surrounding vicinity, the proposed project would not result in significant impacts to special status plant and animal species due to the lack of habitat on the property, no known occurrences in the project and vicinity, and negative findings for the field assessment.

Suitable trees and other vegetation occurring on and within the vicinity of the proposed project site represent potential nesting habitat for protected raptor and migratory bird species. Potential project-related impacts to special status species and measures to avoid or minimize impacts to an insignificant level are identified in **Section 5.0**.

Potential nesting habitat for migratory birds and raptor species is present on and within 500 feet of the proposed project site. Tree removal and other construction activities associated with the proposed project development could result in significant adverse impacts to these species.

Development of the proposed project is anticipated to result in direct impacts to a portion of the shallow marsh and ruderal grassland habitats. The removal of native trees and other woody and herbaceous vegetation within portions of the property would be required to implement the Proposed Project. This vegetation represents potential nesting habitat for migratory bird species. Impacts occurring to these habitats during the nesting season could result in significant adverse impacts to these species. Mitigation measures to reduce potential impacts to less than significant levels are identified in **Section 5.0**.

MIGRATORY BIRDS

Potential adverse direct effects to migratory birds would be avoided or minimized by implementation of the mitigation measures identified in **Section 5.0**.

4.5.2 ALTERNATIVE B – REDUCED INTENSITY ALTERNATIVE

GENERAL EFFECTS

The reduced intensity alternative maintains the existing layout of the DGP facilities and remodels the existing clubhouse to accommodate Class III gaming. No additional facilities are proposed under this alternative and consequently there would be few impacts to biological resources. Land use would remain the same as the current status of the park, although there would be increased patronage. Potential effects to wildlife and habitats would be indirect due to increased patronage. No direct effects would be realized, as the layout of the DGP facilities would not change.

POTENTIAL EFFECTS TO WILDLIFE AND HABITATS

Implementation of the project would result in an increase in human activity within the project area. Many species of wildlife will avoid areas that have a high degree of human activity, thereby causing them to forage over greater distances and reducing the number of breeding and resting sites that are available.

WATERS OF THE U.S.

Direct impacts (i.e., fill, modification, etc.) to “waters of the U.S.” would not occur as a result of the implementation of Alternative B. Implementation of the minimization and avoidance measures identified in **Section 5.0** will avoid or minimize the potential for significant adverse effects to “waters of the U.S.”.

FEDERALLY LISTED SPECIES

The project site does not provide suitable habitat for the Federally listed species identified in **Section 3.5.4, Table 3.5-3**. Consequently, the remodeling of existing facilities would not increase the likelihood of impacting Federally listed or other special status species. No mitigation is required.

MIGRATORY BIRDS

Potential adverse direct effects to migratory birds would be avoided or minimized by implementation of the mitigation measures identified in **Section 5.0**.

4.5.3 ALTERNATIVE C – KESHENA SITE ALTERNATIVE

POTENTIAL EFFECTS TO WILDLIFE AND HABITATS

Increasing the size of the existing facilities would result in an increase in human activity within the project area. Grading and development of about ± 4.5 acres of the ruderal/developed habitat and approximately ± 0.2 acres of the mixed-deciduous/coniferous forest habitat would also occur.

Many species of wildlife will avoid areas that have a high degree of human activity, thereby causing them to forage over greater distances and reducing the number of breeding and resting sites that are available.

Development of Alternative C would result in effects to on-site habitats that are utilized by many species of wildlife (refer to vegetation communities in **Section 3.5.2**). **Table 4.5-3** provides a summary of the acreage of each habitat type that would be affected under Alternative C. As shown in this table, Alternative C would affect ± 4.7 acres of habitat within the Keshena site. Most of the habitat disturbance, approximately 4.5 acres, would occur in ruderal/developed areas. These areas present limited resources for wildlife and are currently subject to disturbance from existing forms of land use, specifically the existing gaming facilities and adjacent parking areas.

TABLE 4.5-3
ANTICIPATED EFFECTS TO HABITAT TYPES –ALTERNATIVE C

Habitat Type	Total Acres	Acreage Affected	Percentage Affected
Ruderal/developed	15	4.5	30
Mixed-deciduous/coniferous forest	2	0.2	10
Total	17	4.7	40

SOURCE: AES, 2004

WATERS OF THE U. S.

Based upon previous field assessments, no “waters of the U.S.” occur within the ± 17 acre Menominee Reservation site (Overstreet and Mier, 1993). No direct or indirect impacts would occur to “waters of the U.S.,” and therefore no mitigation is required.

FEDERALLY LISTED SPECIES

Alternative C is within Critical Habitat as designated in the Habitat Conservation Plan (HCP) for the Karner blue butterfly. There are possible impacts to Karner blue butterfly from the expansion of the existing casino on the Menominee Reservation. Mitigation is discussed in **Section 5.0**.

Typically suitable habitat for the gray wolf and bald eagle are not present on the site. Although these species tend to stay clear of human activity, bald eagles have been observed in the vicinity of the existing facilities with some degree of regularity. Nesting for bald eagles would normally occur in a closer proximity to inland rivers or lakes, away from human disturbances, and no nesting bald eagles have been observed on the site.

Based upon the review of known occurrences, habitat requirements, and the habitat types present within the existing Menominee Reservation facility and surrounding vicinity, the project would result in no significant impacts to the gray wolf.

Construction activity could potentially disrupt ranging behaviors of the local bald eagle population. However, since critical habitat for hunting and nesting is further removed from the site, such an impact would be less than significant.

Suitable trees and other vegetation occurring on and within the vicinity of the Keshena site represent potential nesting habitat for protected raptor and migratory bird species. Potential project-related impacts to special status species are identified below.

Potential nesting habitat for migratory birds and raptor species is present on and within 500 feet of the Keshena site. Tree removal and other construction activities associated with the proposed project development could result in significant adverse impacts to these species.

Development of Alternative C is anticipated to result in direct impacts to a portion of the mixed-deciduous/coniferous forest community. The removal of native trees, and other woody and herbaceous vegetation within portions of the property would be required to implement Alternative C. This vegetation represents potential nesting habitat for raptor and migratory bird species. Impacts occurring to these habitats during the nesting season could result in significant adverse impacts to these species. Mitigation measures to reduce potential impacts to less than significant levels are identified in **Section 5.0**.

MIGRATORY BIRDS

Potential adverse direct effects to migratory birds will be avoided or minimized by implementation of the mitigation measures identified in **Section 5.0**.

4.5.4 ALTERNATIVE D – HOTEL-CONFERENCE CENTER AND RECREATIONAL DEVELOPMENT

Potential impacts to wildlife and habitats and migratory birds would also be the same as discussed in Alternative A. Mitigation for potential adverse impacts is identified in **Section 5.0**.

GENERAL EFFECTS

Implementation of the Hotel-Conference Center and Recreational Development Alternative would involve the development of a hotel and conference center, events and convention center, water park, and video arcade and restaurant. Roadways and footprints for Alternative D are similar to Alternative A. Alternative D has the potential to result in adverse impacts to the biological resources associated with the shallow marsh and ruderal grassland habitat identified in

the Biological Resources Assessment (**Appendix G**). Impacts are considered less than significant due to the relatively common and abundant nature of these habitat types in the region compared to the relatively small area of anticipated disturbance; see Alternative A for further discussion. Construction and operation of Alternative D could also impact sensitive biological resources including “waters of the U. S.” and Federally protected species through destruction, alteration or degradation of these water resources and/or terrestrial habitats.

POTENTIAL EFFECTS TO WILDLIFE AND HABITATS

Alternative D would result in effects to habitats on the project site which are utilized by many species of wildlife. Wildlife is currently subject to disturbance from the existing greyhound race facilities. For more detail regarding these impacts please see the discussion under Alternative A and **Table 4.5-1**.

WATERS OF THE U.S.

Implementation of the minimization and avoidance measures identified in **Section 5.0** will avoid or minimize the potential for significant adverse effects to “waters of the U.S.” For more detail regarding these impacts please see the discussion under Alternative A.

FEDERALLY LISTED SPECIES

None of the three Federally listed species (Eastern Massasauga rattlesnake, prairie white-fringed orchid and prairie bush clover) were observed during the field assessment. Tree removal and other construction activities associated with Alternative D could result in significant adverse impacts to nesting habitat for migratory birds and raptor species. Potential project-related impacts to special status species and measures to avoid or minimize impacts to an insignificant level are identified in **Section 5.0**. For more detail regarding these species please see the discussion on Federally listed species under Alternative A.

MIGRATORY BIRDS

Potential adverse direct effects to migratory birds would be avoided or minimized by implementation of the mitigation measures identified in **Section 5.0**.

4.5.5 ALTERNATIVE E – NO ACTION

Existing biological resources would remain as they are for an unknown period of time and habitats would not be disturbed under the No Action Alternative. Each property would continue to be used for existing purposes, and would be controlled by County and/or Tribal land use regulations, as applicable. Because habitats would not be disturbed, it is assumed that all existing plant and animal species would continue to remain, although the relative intensity of future activities is unknown.